IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/08/2003

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

Criminal Original Petition No.22044 of 2003

N.Shanmugasundaram .. Petitioner

-Vs-

N.Venkatachalam .. Respondent

Petition filed under Section 482 of the Criminal Procedure Code
praying for the relief as stated therein.

!For Petitioner : Mr.N.Manoharan

^For respondent : Mr.G.R.Swaminathan

:O R D E R

The above petition has been filed praying to set aside the
order dated 09.05.2003 made in Crl.M.P.No.1289 of 2003 in C.C.No.213 of 2002
by the Court of Judicial Magistrate, Avanashai.

2. On a perusal of the order dated 09.05.2003, it comes to be
known that the petitioner/accused has filed a petition before the lower court
under Section 311 Cr.P.C. to recall P.W.1 for cross-examination and the same
got closed with a cost /= since the petitioner/accused failed to make use of
the opportunities given to him to cross-examine P.W.1, challenging which this
petition has been filed, praying to set aside the said order.

3. Considering the facts and circumstances of the case, this
Court is of the view that since substantial rights of the parties are involved
in the main case, the petitioner should not be denied of his opportunity and
hence, one more opportu to the petitioner to recall P.W.1 and cross-examine
him would meet the ends of justice. Therefore, it is only desirable to permit
the petitioner to participate in the further proceedings of the case by
allowing this petition.

In result, the above petition succeeds and the same is
allowed.
P.W.1 is recalled for cross-examination and the trial court is
directed to expedite the trial procedure, with due opportunity for the parties
to be heard so as to deliver the judgment on merits and in accordance with law

within three months te of receipt of a copy of this order.

Consequently, Crl.M.P.No.6263 of 2003 is closed.

gs.
18.08.2003